

News Release



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Rejected: Judge Denies Secretary Salazar's Rewrite of Energy Policy Act *Western Energy Alliance Wins Legal Challenge, Hails Nationwide Injunction*

(Denver) – On Friday, August 12, 2011, Chief U.S. District Judge Nancy Freudenthal ruled against the Department of the Interior (DOI) and U.S. Forest Service in *Western Energy Alliance v. Interior Secretary Salazar*, overturning the government's actions and issuing a nationwide injunction against the categorical exclusions (CX) policies issued in May 2010. Judge Freudenthal soundly rejected DOI's claim that western oil and natural gas companies had not been harmed by last year's unlawful and improper rewrite of Section 390 of the Energy Policy Act of 2005.

"The judge's ruling is a victory for responsible American energy development, and holds the promise of new jobs and economic growth. With this nationwide injunction, we hope the government will return to using categorical exclusions to encourage domestic oil and natural gas production and cease requiring redundant environmental analysis that slows economic activity," said Kathleen Sgamma, Director of Government & Public Affairs for Western Energy Alliance.

"The judge ruled soundly that the government cannot substantially change a law passed by Congress without so much as notifying the public and engaging in proper rule making," continued Sgamma. "We're also pleased that there are consequences when the Interior Department engages in closed-door settlements and promises to rewrite law and policies at the behest of environmental groups."

Western Energy Alliance congratulates the legal team of Zeke Williams and Steve Imig of Ducker, Montgomery, Lewis & Bess, PC on this legal victory and willingness to tackle a complex case with industry-wide impact.

Details of the Case:

Judge Nancy Freudenthal rejected the government's arguments that:

- Western Energy Alliance members don't have standing without tying the case to a particular Application for Permit to Drill (APD)
- The harm from the policy was speculative and hence not ripe for judicial review
- The regulations were not binding and did not require public notice and comment as required by the Administrative Procedures Act
- The policies merely clarified ambiguities in the law and were not a substantive rewrite of statute.

[Click here for the judge's full decision.](#)

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About Western Energy Alliance

Western Energy Alliance, founded in 1974, is a non-profit trade association representing more than 400 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. More information on Western Energy Alliance and its members is available at www.westernenergyalliance.org.